

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

ADJUSTACAM LLC  
*Plaintiff*

v.

AMAZON.COM, INC. *et al.*,  
*Defendants*

Case No. 6:10-cv-329-LED

**JURY TRIAL DEMANDED**

**DEFENDANTS' RESPONSE AND STATEMENT OF NON-OPPOSITION TO  
PLAINTIFF'S MOTION FOR EXTENSION OF TIME RELATING TO PLAINTIFF'S  
LATE-FILED MARKMAN REPLY**

Pending before the Court is Plaintiff AdjustaCam LLC's Motion for Extension of Time relating to Plaintiff's late-filed Markman reply ("Plaintiff's motion") (Dkt. No. 608). By this Response, Defendants Amazon.com, Inc., Auditek Corporation, Best Buy Co. Inc., Best Buy Stores, LP, Bestbuy.Com, CDW LLC, CompUSA.com, Inc., Digital Innovations, LLC, Fry's Electronics, Inc., Gear Head, LLC, Hewlett-Packard Company, Kohls Corporation, Kohl's Illinois, Inc., Micro Electronics, Inc. d/b/a Micro Center, New Compusa Corporation, Newegg, Inc., Newegg.Com, Inc., Office Depot, Inc., Rosewill Inc., Sakar International, Inc., Systemax, Inc., Target Corporation, Tigerdirect, Inc., and Wal-Mart Stores, Inc., (collectively, "Defendants") hereby state that they do not oppose the relief sought in Plaintiff's motion, and state as follows:

Plaintiff's opening Markman brief was due Friday, December 16. On Thursday, December 15, Plaintiff requested an extension to the next business day, Monday, December 19, for Plaintiff's opening Markman brief. Defendants agreed, provided that Defendants be given a one-day extension for Defendants' responsive Markman brief. The next business day for Defendants' response was therefore Tuesday, January 17. Plaintiff never requested an extension

for Plaintiff's reply, which was due 10 days later, on January 27, 2012. Plaintiff filed its reply late, shortly before midnight on Tuesday, January 31. Defendants promptly notified Plaintiff that Plaintiff's Markman reply was untimely on Thursday, February 2, 2012. Defendants received no substantive response from Plaintiff other than a statement that Plaintiff would "investigate," until 6 days later, on the day before the scheduled Markman Hearing, when Plaintiff demanded that Defendants either agree to an extension or to immediately make themselves available to meet-and-confer. In view of the Markman Hearing the next day, Defendants informed Plaintiff that if Plaintiff insisted on filing a motion that day, Plaintiff must file the motion opposed. Plaintiff subsequently filed Plaintiff's motion. Having had sufficient time both to consult with Defendants' respective clients and to properly consider Plaintiff's motion, Defendants are of the opinion that ruling on an opposed motion would not be an efficient use of the Court's judicial resources and therefore do not oppose the relief sought in Plaintiff's motion.

DATED: February 15, 2012

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this notice was served on all counsel who have consented to electronic service, Local Rule CV-5(a)(3)(A), on this the 15th day of February, 2012.

/s/ Bryan D. Atkinson

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